

ENTERED

July 08, 2021

Nathan Ochsner, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

J.B. BLACK,	§	
SPN #01214826,	§	
	§	
Petitioner,	§	
	§	
v.	§	CIVIL ACTION NO. H-21-2212
	§	
SHERIFF ED GONZALEZ,	§	
	§	
Respondent.	§	

ORDER OF DISMISSAL

J.B. Black (SPN #01214826) has filed a Petition For a Writ of Habeas Corpus under 28 U.S.C. § 2241 ("Petition") (Docket Entry No. 1), seeking the dismissal of criminal charges that are pending against him in Harris County, Texas. After considering the pleadings and the applicable law, the court concludes that this action must be dismissed for the reasons explained below.

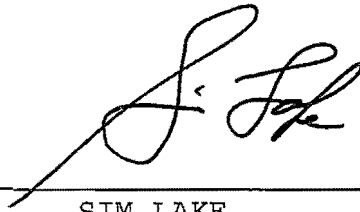
Black requests an order or injunction directing the 174th District Court for Harris County, Texas, to dismiss criminal charges that have been filed against him on the grounds that he has been denied a speedy trial (Docket Entry No. 1, p. 7). It is well established that federal habeas corpus relief is not available "to 'abort a state proceeding or to disrupt the orderly functioning of state judicial processes' by litigating a speedy trial defense to a prosecution prior to trial[.]" Dickerson v. Louisiana, 816 F.2d 220, 226 (5th Cir. 1987) (quoting Braden v. 30th Judicial Circuit,

Court of Kentucky, 93 S. Ct. 1123, 1129 (1973) (citation omitted)); see also Brown v. Estelle, 530 F.2d 1280, 1283 (5th Cir. 1976) (seeking dismissal of charges because of a speedy trial violation amounts to an attempt to assert an affirmative defense to a state criminal charge prior to a judgment of conviction by a state court, which is prohibited by a "long line of precedent") (citing Braden, 93 S. Ct. at 1136-37); Nichols v. Director, TDCJ-ID, Nos. 1:14-cv-367, 1:14-cv-542, 1:14-cv-545, 2016 WL 1130277, at *1-2 (E.D. Tex. Feb. 29, 2016) (rejecting a pretrial habeas corpus petition from a prisoner seeking to dismiss indictments against him, alleging the denial of a speedy trial).

Because Black seeks relief that is not available under the federal habeas corpus statutes, it is **ORDERED** that this action is **DISMISSED** with prejudice for failure to state a claim upon which relief may be granted. No certificate of appealability will issue from this decision.

The Clerk shall provide a copy of this Order to the petitioner.

SIGNED at Houston, Texas, on this 8th day of July, 2021.

A handwritten signature in black ink, appearing to read "S. Lake", written over a horizontal line.

SIM LAKE
SENIOR UNITED STATES DISTRICT JUDGE